IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

L.P.APPEAL NO.390 OF 2004

IN

WRIT PETITION NO.1579 OF 2004

Hindustan Coca-Cola Bottling
Southwest Agents Trade Association..Appellant

Versus

M/s.Hindustan Coca-Cola Marketing
Company Private Limited & Ors. ..Respondents

Mr.Arshad Shaikh i/b Mr.U.J.Desai for the appellant

Mr.C.U.Singh with Mr.S.Srivastava i/b Mr.D.H.Law Associates for respondent no.1

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 15TH SEPTEMBER, 2004

P.C.:

1. Heard advocates.

2. By consent of the parties the State Government is directed to refer the dispute raised in the following issues arising out of the complaint filed by the appellant to the Industrial Tribunal for adjudication under section 10(1) of the Industrial

Dispute Act, 1947:

(a) Whether the contract, if any, between the workers/persons listed at Ex."A" to this reference and the C & F agent of Hindustan Coca-Cola Marketing Co.Pvt.Ltd. is sham and bogus and a camouflage to deprive the said workers/persons of the benefits available to permanent workmen of Hindustan Coca-Cola Marketing Co. Pvt. Ltd.

(b) If yes, whether the workers/persons listed at Ex. "A" to this reference are entitled to be declared as permanent workmen of Hindustan Coca-Cola Marketing Co.Pvt. Ltd.

(c) If yes, what are the wages and consequential benefits to be paid to the concerned workmen from which date and whether with continuity of services.

(d) Whether the unemployment of the concerned workers/persons from 18th October 2003 amounts to an illegal layoff or illegal lockout and if yes, what relief the concerned workers/persons are entitled to?

3. The Industrial Tribunal is directed to decide the dispute on its own merits expeditiously and preferably on or before 31st December 2005.

4. All contentions on merits are left open to the parties.

5. Writ Petition stands disposed of in terms of the order mentioned above.